

## **ZONING ORDINANCES -CITY OF ESCONDIDO**

### **ARTICLE 40. HISTORICAL RESOURCES**

Sec. 33-790. Purpose and definitions.

Sec. 33-791. Historic preservation commission.

Sec. 33-792. Establishment of a local register of historical places.

Sec. 33-793. Designation of a local historical landmark.

Sec. 33-794. Procedure and criteria for local register listing or local landmark designation.

Sec. 33-795. Procedure and criteria for rescinding local register or landmark status.

Sec. 33-796. Historical districts.

Sec. 33-797. Procedure and findings for designating an historical district.

Sec. 33-798. Permits and permit procedures.

Sec. 33-799. Incentives for preserving historical resources.

Sec. 33-800. Duty to keep in good repair.

Sec. 33-801. Demolishing an historical resource.

Sec. 33-802. Procedure for obtaining an emergency demolition permit.

Sec. 33-803. Procedure and findings for obtaining a nonemergency demolition permit.

Sec. 33-804. Enforcement and penalties.

Sec. 33-805. Historic street markings.

Sec. 33-806. Public notification.

### **Sec. 33-790. Purpose and definitions.**

(a) Purpose. It is the purpose and intent of this article to:

- (1) Protect, enhance and perpetuate historical resources, sites, and districts that represent or reflect elements of the city's cultural, social, economic, political, and architectural history for the public health, safety, and welfare of the people of the city;
- (2) Safeguard the city's historical heritage as embodied and reflected in its historical resources, sites, and historical districts;
- (3) Stabilize and improve property values;
- (4) Foster civic pride in the character and accomplishments of the past;
- (5) Strengthen the city's economy by protecting and enhancing the city's attractions to residents, tourists, and visitors and serve as a support and stimulus to business and industry;
- (6) Enhance the visual character of the city by encouraging the preservation of unique and established architectural traditions;
- (7) Promote the use of historical landmarks and districts for the education, pleasure, and welfare of the people of the city;
- (8) Permit historical and archaeological sites to be identified, documented, and recorded by written and photographic means and allow an opportunity for preservation of historical and archaeological sites.

(b) Definitions. Whenever the following terms are used in this article, they shall have the meaning established by this section.

(1) *Alteration* means any exterior change or modification through public or private action of any historical property or resource on the local register or located within an historical district, affecting the exterior visual qualities of the property or resource excluding routine maintenance (masonry tuckpointing, cleaning, and painting), temporary fixtures (awnings and canopies, signs and plaques, light fixtures, portable spas, steps, and landscape accessories) and maintenance and removal of plantings and nonmature trees. Alteration also includes removal of historical resources such as mature trees and other landscape features identified on the Escondido historic sites survey as well as disturbances of archaeological sites.

(2) *Archaeological site* means an area where remains of man or his activities prior to keeping of history are still evident.

(3) *California Register of Historical Resources/California Register* means a state authoritative and comprehensive listing and guide to California's significant historical resources. The California Register is used by state and local agencies, private groups and citizens to identify, evaluate, register and protect California's historical resources. The California Register is administered by the State Historic Resources Commission, and the Office of Historic Preservation.

(4) *Catastrophic event* means an event, such as fire, earthquake or flooding, that is beyond the property owner's ability to control and renders historical resources hazardous. Catastrophic event shall not include improper/insufficient owner maintenance or corrections that can be

accomplished through reasonable measures.

(5) *Certificate of appropriateness* means a certificate issued by the director of planning and building approving alteration, restoration, construction, removal, relocation in whole or in part, of or to a property on the local register or to an improvement within an historical district.

(6) *Demolition* means any act that destroys in whole or in part an historical resource on the local register or an improvement within an historical district.

(7) *Design Guidelines For Historic Resources* means the guideline/manual adopted by city council Ordinance 91-57 and any subsequent amendments, applicable to any historical resource or any property within an historical district, intended for property owners, design professionals, and city boards and commissions as a design resource, regulatory tool and policy guide.

(8) *Escondido historic sites survey*. See *Survey*.

(9) *Facade* means the exterior face of a building that is the architectural front, sometimes distinguished from other faces by elaboration of architectural or ornamental details.

(10) *Fixture* means a decorative or functional device permanently affixed to a site or the exterior of a structure and contributing to its ability to meet historical designation criteria. Permanently affixed shall include, but not be limited to, attachment by screws, bolts, pegs, nails or glue, and may include such attachment methods as rope, glass or leather if such material is integral to the design of the device. Fixtures include, but are not limited to, lighting devices, murals, moldings, leaded glass or other decorative windows and decorative hardware.

(11) *HPC* means historic preservation commission consisting of appointed members by the city council.

(12) *Historical resources* means and includes, but is not limited to, any object, building, structure, site, area, place, sign, outdoor work of public art, landscape feature, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Escondido and listed on the Escondido historic sites survey.

(13) *Historical district* means any area that contains a number of structures or landscape features having a similar character of historic, archaeological, cultural, architectural, community or aesthetic value as part of the heritage of the city, region, state, or nation, and that has been designated pursuant to this article.

(14) *Historic register incentives program* means a program adopted by city council resolution of various incentives intended to encourage and facilitate the preservation, maintenance and appropriate rehabilitation of significant historical resources. The availability of incentives may vary from time to time.

(15) *Historic sign* means a sign that possesses historical, cultural, architectural, or community interest or value associated with the development, heritage or history of the city and that is listed on the Escondido historic sites survey or designated on the local register of historic places.

(16) *Historical site* means any parcel or portion of real property that has special character related to its special historical, cultural, or archaeological feature.

(17) *Historic street markings list* means the list adopted by city council Ordinance 88-57, and

any subsequent amendments, identifying the location and name of the historical markings.

(18) *Improvement* means any place, building, structure, landscape feature or object constituting a physical addition to real property or a structure on real property, or any part of such addition or facade excluding routine maintenance such as masonry tuckpointing, cleaning, painting, awnings, signs, plaques, light fixtures, steps, spas, plantings, nonmature tree and landscaping accessories.

(19) *Landscape feature* means any tree or plant life that has been placed, planted or manipulated by man for cultural purposes.

(20) *Local historical landmark* means any historical resource that has been registered as a local historical landmark pursuant to this article because of its outstanding historic, cultural, architectural, archaeological, or community interest or value as part of the development, the heritage or history of the city.

(21) *Local register of historical places* means a local list established by the city council of districts, sites, buildings, uses, landscape features, signs, structures and objects of local, state or national importance that are significant and warrant protection because of their historic, architectural, archaeological, or cultural values. The local register includes local historical landmarks and districts.

(22) *Mature tree* means as defined in Escondido Zoning Code Article 62, Landscape Standards.

(23) *National Register of Historic Places* means a national list of districts, sites, buildings, structures and objects of local, state or national importance that are significant for their historical, architectural, archaeological or cultural values. Properties less than fifty (50) years old ordinarily are not eligible for the Register unless they are of exceptional importance. The Register is administered by the Keeper of the Register, U. S. Department of the Interior and is the nation's official list of cultural resources worthy of preservation.

(24) *Owner* means the person appearing on the last equalized assessment roll of the County of San Diego.

(25) *Person* means any individual, association, partnership, firm, corporation, public agency or political subdivision.

(26) *Secretary of the Interior's Standards* means the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, 1983 Edition, or such later edition as adopted by the city council.

(27) *Street markings* means any street name or stamp in concrete or curbs that denotes the original name of the street or contractor. This definition also includes any historical feature such as horse rings or lamp posts as identified in the Escondido historic survey, and all items identified in the historic street markings list.

(28) *Survey* means the Escondido historic sites survey consisting of an historical resources inventory compiled and maintained by the historic preservation commission that documents structures, uses, sites, and artifacts that are related to the area's history including all areas within the corporate limits. Resources on the list must be fifty (50) years or older unless the historic preservation commission deems a younger, exceptional resource worthy of documentation. The

inventory was originally completed in March 1984 and is updated as needed. The survey may also include an inventory of archaeological resources. Certain records of archaeological resources may not be subject to public review in the interest of protecting these resources from tampering. Resources listed in the survey are eligible for nomination to the Escondido local register of historical places. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-791. Historic preservation commission.**

(a) Established membership. An historic preservation commission, (HPC), shall be established by and serve at the discretion of the city council. The HPC shall act in an advisory capacity to the city council and planning commission in all matters relating to the identification, protection, retention, and preservation of historical sites and areas within the city. All members of the HPC shall have demonstrated special interest, competence, experience or knowledge in historical preservation. Prior to appointment by mayor, the prospective HPC members shall have demonstrated that they meet the requirements of a commissioner set forth under the Certified local government guidelines. The HPC shall be comprised of nine (9) individuals from the community who represent a variety of perspectives related to historical preservation and which shall include the following: (1) Professionals in the fields of American studies, anthropology, cultural geography, architecture, archaeology, or other historical preservation-related disciplines. A minimum of two (2) and preferably a majority shall serve on the HPC to the extent these professionals are available in the community; (2) Historians (a minimum of one (1)); (3) Members of the Escondido historic society (a minimum of one (1)); (4) Also, considered desirable to serve on the HPC are: (A) Owners of historical structures listed on the Escondido historic sites survey; (B) A representative from any formally approved historical district.

(b) Appointment/terms. (1) HPC members shall be appointed by the mayor and shall serve for two (2) years. The terms shall be staggered to assure continuity. HPC members are eligible for the reappointment. (2) In the event an HPC member resigns prior to completing his or her term, the vacancy shall be filled within sixty (60) days for the unexpired term of the former member in the same manner as the original appointment was made.

(c) HPC duties. The HPC shall act in an advisory capacity to the city council and planning commission in all matters relating to the identification, protection, retention, and preservation of historical sites and areas within the city and shall have the following responsibilities:

(1) Prepare an annual report to the mayor and city council on the activities, cases, decisions and other work of the HPC. (2) Investigate and report to the city council on the use of various federal, state, local or private funding sources and mechanisms available to promote historical resource preservation in the city. (3) Assume whatever responsibilities and duties assigned to it by the state under the certified local government provisions of the National Historic Preservation Act of 1966 as amended. (Ord. No. 2000-23, §§ 4, 9-13-00; Ord. No. 2001-7, §§ 3, 3-21-01)

### **Sec. 33-792. Establishment of a local register of historical places.**

(a) Purpose. The purpose of the local register is to provide a means to preserve, protect and enhance the most significant historical resources within the community, including structures,

sites, buildings, uses, and landscape features.

(b) Eligibility. Resources listed on the Escondido historic sites survey are eligible for nomination to the Escondido local register of historical places.

(c) Identification. Local register resources may be identified on site with an exterior marker displaying pertinent information about the resource. A record of resources on the local register will be kept at the planning division and at the regional information center of the office of historic preservation or other agencies as required. (Ord. No. 2000-23, §§ 4, 9-13-00)

**Sec. 33-793. Designation of a local historical landmark.**

(a) Purpose. The purpose of designating historical landmarks is to provide distinctive recognition of structures, sites, buildings, uses, and landscape features that have outstanding character or historical, archaeological or aesthetic interest or importance as part of the development, heritage, or cultural characteristics of the city.

(b) Eligibility. Resources listed on the local register are eligible for local historical landmark nomination.

(c) Identification. Landmark resources would be identified onsite with an exterior marker displaying pertinent information about the landmark. A record of the landmark resource would also be kept at the planning division and at the regional information center of the office of historic preservation or other agencies as required. (Ord. No. 2000-23, §§ 4, 9-13-00)

**Sec. 33-794. Procedure and criteria for local register listing or local landmark designation.**

(a) Initiation. Any person may nominate an historical resource to the local register or landmark designation. The application shall be made to the planning division on forms provided by the city. Requests for local landmark designation shall include a letter signed by the property owner consenting to the initiation.

(b) Review process.

(1) Upon receipt of an application for local register listing or local landmark designation, the planning division shall notify the property owner and building department of the pending request. No building or demolition permits shall be issued for any alteration to any improvement, fixture, or facade located on a site subject to a request for local register listing or local landmark designation while the matter is pending final decision.

(2) Requests for local register listing or local landmark designation of resources owned by the City of Escondido shall be brought to the city council prior to the HPC's decision to list or designate such resource.

(3) The HPC and city council shall each hold a duly noticed public hearing. In their review of the request for local register listing or local landmark designation, the HPC and the city council shall consider the criteria listed in this section.

(c) Notification of action. No later than five (5) working days following the city council's action,

the decision of the city council shall be filed with the city clerk and a notice thereof shall be mailed to the applicant at the address shown on the application.

(d) Criteria. Prior to granting a resource local register or historical landmark status, the city council shall consider the definitions for historical resources and historical districts and shall find that the resource conforms to one (1) or more of the criteria listed in this section. A structural resource proposed for the local register shall be evaluated against criteria number one (1) through seven (7) and must meet at least two (2) of the criteria. Signs proposed for the local register shall meet at least one (1) of the criteria numbered eight (8) through ten (10). Landscape features proposed for the local register shall meet criterion number eleven (11). Archeological resources shall meet criterion number twelve (12). Local register resources proposed for local landmark designation shall be evaluated against criterion number thirteen (13). The criteria are as follows:

- (1) Escondido historical resources that are strongly identified with a person or persons who significantly contributed to the culture, history, pre-history, or development of the City of Escondido, region, state or nation;
- (2) Escondido building or buildings that embody distinguishing characteristics of an architectural type, specimen, or are representative of a recognized architect's work and are not substantially altered;
- (3) Escondido historical resources that are connected with a business or use that was once common but is now rare;
- (4) Escondido historical resources that are the sites of significant historic events;
- (5) Escondido historical resources that are fifty (50) years old or have achieved historical significance within the past fifty (50) years;
- (6) Escondido historical resources that are an important key focal point in the visual quality or character of a neighborhood, street, area or district;
- (7) Escondido historical building that is one of the few remaining examples in the city possessing distinguishing characteristics of an architectural type;
- (8) Sign that is exemplary of technology, craftsmanship or design of the period when it was constructed, uses historical sign materials and is not significantly altered;
- (9) Sign that is integrated into the architecture of the building, such as the sign pylons on buildings constructed in the Moderne style and later styles;
- (10) Sign that demonstrates extraordinary aesthetic quality, creativity, or innovation;
- (11) Escondido landscape feature that is associated with an event or person of historical significance to the community or warrants special recognition due to size, condition, uniqueness or aesthetic qualities;
- (12) Escondido archaeological site that has yielded, or may be likely to yield, information important in prehistory;

(13) Escondido significant historical resource that has an outstanding rating of the criteria used to evaluate local register requests. (Ord. No. 2000-23, §§ 4, 9-13-00)

**Sec. 33-795. Procedure and criteria for rescinding local register or landmark status.**

(a) Submittal. Any person may submit a written request to the planning division to remove his/her resource from the local register or to rescind a local landmark designation. The application shall be made on forms provided by the city.

(b) Review. The HPC and city council shall each hold a duly noticed public hearing. In their review of the request to remove a local register or landmark designation, the HPC and the city council shall consider the criteria listed in this section.

(c) Notification of Action. No later than five (5) working days following the city council action, the decision of the city council shall be filed with the city clerk and a notice thereof shall be mailed to the applicant at the address shown on the application.

(d) Criteria. The criteria listed in this section shall be used to determine whether to remove a resource from the local register or to rescind its local landmark designation.

(1) New documentation has been presented disproving the information upon which the resource was placed on the local register or given landmark status;

(2) Evidence has been presented showing that modifications and alterations to the resource have eliminated the distinctive architectural features that warranted its placement on the local register or its designation as a local landmark. (Ord. No. 2000-23, §§ 4, 9-13-00)

**Sec. 33-796. Historical districts.**

(a) Purpose. The purpose of designating historical districts is to provide recognition to an area or site that has several individual structures and improvements that contribute to a special aesthetic, cultural, architectural, or engineering interest or value of an historical or archaeological nature.

(b) Eligibility. Any geographically definable area possessing a significant concentration or continuity of sites, buildings, structures, or objects unified by past events, or aesthetically by plan or physical development is eligible for historical district designation.

(c) Zoning applicability. An historical district designation may be combined with any zoning district provided for in this title as an overlay to be shown on the zoning map. Development within an historical district overlay shall be subject to historical preservation provisions as set forth in this article, as well as to the regulations of the underlying zone. Where conflict occurs, the regulations set forth in this article shall apply.

(d) Identification. Markers displaying pertinent information about the district may be placed at various vehicular and pedestrian gateways into the historical district. The boundaries of an historical district may be shown on a zoning map as an overlay zone. A record of historical districts would be kept at the planning division and at the regional information center of the

office of historic preservation or other agencies as required. (Ord. No. 2000-23, §§ 4, 9-13-00)

**Sec. 33-797. Procedure and findings for designating an historical district.**

(a) Submittal. Any person may request the historic preservation commission to designate an historical district. The request for designation shall be filed with the planning division on forms provided by the city.

(b) Review process.

(1) Initiation process. Upon receipt of a recommendation from the historic preservation commission, the city council shall determine whether or not to initiate the designation process.

(2) Designation process. Upon city council initiation:

(A) A minimum of one (1) public neighborhood meeting shall be held during the designation process.

(B) Following the appropriate neighborhood meetings and the completion of research for the district, the historic preservation commission shall hold a duly noticed public hearing and shall forward its recommendation to the planning commission and city council. Should the historic preservation commission recommend that the area be designated an historical district, the report shall contain the following information:

(i) A map showing the proposed boundaries of the historical district and identifying all structures within the boundaries, contributing or noncontributing;

(ii) An explanation of the significance of the proposed district and description of the historical resources within the proposed boundaries;

(iii) Statements showing how the proposed historical district meets the findings set forth in this Section.

(C) The HPC and city council shall each hold a duly noticed public hearing. In their review of the request to designate a historical district, the HPC and the city council shall consider the criteria listed in this section.

(c) Criteria. The city council may designate an area as an historical district if it finds that the proposed historical district meets all of the following criteria:

(1) The proposed historical district is a geographically definable area possessing a significant concentration or continuity of sites, buildings, structures, or objects unified by past events, or aesthetically by plan or physical development;

(2) The collective historical value of the proposed historical district may be is greater than that of each individual resource;

(3) The proposed designation is in conformance with the purpose of the city's historic preservation provisions set forth in this article and the city's general plan.

(d) Notification of action. No later than five (5) working days after city council action, the city council's decision shall be filed with the city clerk. A notice thereof shall be mailed to the applicant at the address shown on the application and to the owners of properties located within the proposed historical district. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-798. Permits and permit procedures.**

(a) It is unlawful for any person to tear down, demolish, construct, alter, remove or relocate any historical resource or any portion thereof that has been listed on the local register, designated a local landmark, or located within an historical overlay district or to alter in any manner any feature of such designated resource without first obtaining a permit in the manner provided in this article. All repairs, alterations, constructions, restorations or changes in use of applicable historical resources shall conform to the requirements of the State Historical Building Code and the Secretary of the Interior's Standards for Rehabilitation.

(b) Design review and the receipt of a certificate of appropriateness is required for any alteration or improvement, as defined by this article, involving an historical resource listed on the local register, designated a local landmark, or located within a historical overlay district. Unless otherwise exempted in this article, a certificate of appropriateness is required for any new construction, modification, and alteration that would affect the exterior appearance of a designated historical resource, including back and sides, as well as street facade, even when a building permit is not otherwise required. Other permits may be required as prescribed in this article.

(c) Exemptions. A certificate of appropriateness is not required for routine maintenance (masonry tuckpointing, cleaning, and painting), installation of temporary fixtures (awnings and canopies, signs and plaques, light fixtures, portable spas, steps, and landscape accessories) and maintenance and removal of plantings and nonmature trees. Nor does this article prevent the construction, reconstruction, alteration, restoration, demolition or removal of any improvement when the city's building and safety department has been satisfied that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the State Historical Building Code.

(d) Submittal requirements for certificate of appropriateness. An application for certificate of appropriateness shall be filed with the planning division on a form provided by the city.

(e) Review processes. Following the planning division's receipt of a complete application, the director of planning and building shall determine the appropriate review process as follows:

(1) Minor projects. Minor projects shall be subject to planning division staff review. Staff may confer with the design review board prior to determination. Minor projects include:

(A) Placement or removal of exterior objects and the restoration and exterior changes to materials (siding, brick, stucco, metal, etc.) and structures including porches (columns, cornices), roofs (covering, change in shape), satellite dishes, solar collectors, freestanding walls, fences and retaining walls, and any modifications to historical signs; and

(B) The following projects involving local register and historical landmark resources: restoration and exterior changes to architectural details and decorative elements (fish scale, shingles, dentils, shutters), porches (trim, railing, ornamentation), exterior staircases, exterior doors, windows skylights, mechanical systems (window units, exhaust fans, vents), storm windows and doors, security grilles, and fire escapes.

(2) Major projects. Major projects shall be subject to design review board review prior to staff determination. Major projects include all new construction (primary structure, out-buildings), additions (including porch enclosures, dormers, etc.), removal, relocation, change to the site, (grading, parking lots, paving), public right-of-way improvements (curb and, gutter, sidewalks, street paving, driveways, curb cuts, stamped sidewalk), new freestanding signs, street furniture, and any project requiring a plot plan review or a discretionary permit.

(3) Discretionary permit projects requiring a public hearing. Discretionary permit projects requiring a public hearing before the planning commission shall be subject to review by the design review board and historic preservation commission prior to planning commission determination.

(f) Notification of action. No later than five (5) working days following action by planning division staff, historic preservation commission, or planning commission, notification of the determination shall be filed with the city clerk and notice thereof shall be mailed to the applicant at the address shown on the application. If the determination was to approve the proposed work, staff shall issue a certificate of appropriateness that outlines the approved work. If the determination was to disapprove the proposed work, the applicant shall be provided with a written statement giving the reasons for disapproval.

(g) Appeal. The planning division's decision may be appealed to the historic preservation commission. Decisions made by the historic preservation commission may be appealed to the planning commission, which decision may be appealed to the city council. Appeals shall be filed and noticed in accordance with Section 33-1303 of this title. Upon receiving an appeal, a public hearing shall be scheduled to consider the matter and uphold or reverse the decision.

(h) Findings. A certificate of appropriateness may be issued if planning division staff, historic preservation commission, planning commission, or the city council make the following findings:

(1) All of the following:

(A) The proposed alteration or improvement is consistent with the design guidelines for historic resources;

(B) The action proposed is consistent with the purposes of historical preservation as set forth in this article and with the general plan;

(C) The action proposed retains the historical and/or architectural value and significance of the landmark, historical building, or historical district;

(D) The action proposed retains the texture and material of the building and structure in question or its appurtenant fixtures, including signs, fences, parking, site plan, landscaping and the

relationship of such features to similar features of other buildings within an historical district;

(E) The proposed project is compatible in its location of buildings and structures with the location of the street or public way and the location and arrangement of other buildings and structures in the neighborhood;

(F) If located within an historical district, the proposed project conforms to the design guidelines established for the district; or

(2) The applicant has demonstrated that the action proposed is necessary to correct an unsafe or dangerous condition on the property. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-799. Incentives for preserving historical resources.**

(a) Historic register incentives program. To support the preservation, maintenance and appropriate rehabilitation of historical resources and thus carry out the purposes of this article, the HPC may develop and recommend incentives for city council adoption. The type and availability of incentives vary from time to time.

(b) Eligible resources. Resources listed on the local register of historical places, including local historical landmarks and properties located within an historical district, may be eligible for incentives.

(c) Submittal requirement. Requests for an incentive shall be filed in writing with the planning division. The request shall include the consent of the owner of the historical resource and information needed to determine whether the resource qualifies for the requested incentive.

(d) Repayment required. Monies granted as an incentive to preserve an historical resource pursuant to this article shall be repaid to the city following the HPC's approval to remove the historical designation of said historical resource or the HPC's approval of its demolition. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-800. Duty to keep in good repair.**

(a) Maintenance regulations. The owner, lessee, or other person legally in possession of an historical resource on the local register or on the survey within an historical district shall comply with all applicable codes, laws and regulations governing the maintenance of property and shall secure the property against trespassers. Additionally, it is the intent of this section to preserve from deliberate or inadvertent neglect, the exterior features of buildings on the local register or on the survey within an historical district, and the interior portions thereof when such maintenance is necessary to prevent desecration and decay of the exterior. All such buildings shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

(1) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

- (2) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split, or buckle due to defective material or deterioration;
- (3) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;
- (4) Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;
- (5) Any fault or defect in the building that renders it not properly watertight or structurally unsafe. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-801. Demolishing an historical resource.**

- (a) Demolition permit required. No historical resource shall be demolished prior to obtaining a demolition permit issued pursuant to section 33-802 or 33-803, pertaining to emergency or non-emergency removal of historical resources, respectively.
- (b) Status of historical significance designation. In all cases, demolishing a local register resource shall automatically remove the local register and landmark designation unless the historic preservation commission determines that the site should be retained for potential monumentation. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-802. Procedure for obtaining an emergency demolition permit.**

- (a) Submittal. A request for a demolition permit involving an historic resource that has been subject to a catastrophic event, as defined in this article, shall be submitted in writing to the planning division and shall include the property owner's authorization for submittal.
- (b) Review. On a case-by-case evaluation and upon consultation with a minimum of two (2) historic preservation commissioners and an architect or engineer, the director of planning and building may, without a public hearing, issue a permit for a complete or partial demolition of an historical resource if it is determined that the catastrophic event has rendered said resource immediately hazardous and dangerous and/or detrimental to the public health and/or safety as defined in the latest adopted California Building Code or California Housing Law.
- (c) Considerations for demolition. In determining the appropriateness of demolishing a resource under this emergency provision, the director of planning and building shall give consideration to demolishing only those portions of a resource that are immediately hazardous, thereby allowing for the preservation/reconstruction of non-hazardous portions. The Director shall also consider whether the damage to the resource is so substantial that it alters the historic character of the resource. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-803. Procedure and findings for obtaining a nonemergency demolition permit.**

- (a) Submittal. A request for a permit to demolish an historical resource in a nonemergency

situation shall be submitted in writing to the planning division using forms provided by the city.

(b) Review. The HPC and city council shall each hold a duly noticed public hearing. In their review of a request for demolishing a local register or an historical landmark resource, the HPC and the city council shall consider the following:

(1) Whether the designated property can be put to a reasonable beneficial use without granting a demolition permit;

(2) In the case of a demolition application involving an income-producing property, whether the owner can obtain a reasonable return from the property without the granting of a demolition permit.

(c) Findings. The city council may approve a demolition request upon making all the following findings:

(1) That all feasible economic and physical alternatives to demolition have been evaluated, and that the applicant has shown that there is no alternative left to pursue, other than demolition;

(2) That the continued existence of the historical resource is detrimental to the public health, safety and welfare;

(3) That the City of Escondido's inventory of significant historical resources is not diminished by the demolition of the subject resource, and that there remains in the community a like resource, i.e. use, site architectural style or example of an architect's work.

(d) Notification of Action. No later than five (5) working days following the city council action, the decision of the city council shall be filed with the city clerk and a notice thereof shall be mailed to the applicant at the address shown on the application. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-804. Enforcement and penalties.**

(a) Abatement. The procedures set forth in Chapter 6, Article 7 of the Escondido Municipal Code governing unsafe, dangerous or substandard buildings, whether in commercial or residential use, shall be applicable to any violations of sections 33-800 and 33-801.

(b) Misdemeanor. It is unlawful for any person or entity to maintain any building or demolish a historical resource listed on the local register or on the survey within an historical district in violation of section 33-800 and section 33-801, respectively. Any such violation constitutes a misdemeanor punishable as set forth in section 1-13 of the Escondido Municipal Code. Each day of violation constitutes a separate offense and may be separately punished. The chief building official and code enforcement officer are authorized to exercise the authority in California Penal Code Section 836.5 and to issue citations for violation of this section.

(c) Additional remedies.

(1) In addition to any other remedies provided herein, any violation of this chapter may be

enforced by civil action brought by the city. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein are cumulative and not exclusive. In any such action, the city may seek as appropriate, one (1) or both of the following remedies:

(A) A temporary or permanent injunction, or both;

(B) Assessment of the violator for the costs or any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection; and

(2) In addition to any other remedies provided herein, in the event an historic resource is completely demolished in violation of this chapter, a penalty may be imposed in which no building or construction related permits shall be issued for the property upon which the demolition took place, for a period of three (3) years from the date of demolition. Said penalty shall be enforced by civil action filed by the city attorney and adjudicated by a court of competent jurisdiction. A demolition shall be presumed to have occurred on the date that the city had actual knowledge of the demolition. (Ord. No. 2000-23, §§ 4, 9-13-00)

### **Sec. 33-805. Historic street markings.**

(a) In order to preserve the integrity of historic street markings throughout the City of Escondido, the following procedures shall be followed:

(1) The current and proposed locations of the existing historic street marking shall be clearly noted on the improvement plan. If neither improvement plans nor a site development review plan is required for the development, the applicant shall submit a letter and location map to the planning division ten (10) days prior to the construction of any new improvements. The planning division shall review the request and inform the appropriate departments of the restrictions.

(2) In addition, a one-thousand dollar (\$1,000.00) security bond shall be submitted to the engineering division prior to building permit issuance to insure that the street marking is properly preserved.

(3) Efforts shall be made to preserve a marking in its original location. However, if the director of planning and building concurs that no other alternative exists but to relocate the marking, the applicant shall:

(A) Saw-cut the entire street marking out in one piece and reinstall it as part of the new walk as close as possible and within context of its original location; or

(B) Saw-cut the entire street marking out in one piece and reinstall it adjacent to the new walk as close as possible and within context of its original location.

(4) The planning division shall review the request and inform the appropriate departments of the restrictions. The public works department will ensure that the work is correctly done during reconstruction of the curb, gutter, sidewalk and sidewalk pattern. (Ord. No. 2000-23, §§ 4, 9-13-

00)

**Sec. 33.806. Public notification.**

Unless otherwise specified in this article, notices of public hearings held pursuant to this article shall be published and mailed in accordance with section 33-1300 (a) and (c) of this title. (Ord. No. 2000-23, §§ 4, 9-13-00)